

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA

(1) DEREK LOWDER, individually,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No.: CIV-12-237-D
	)	
(1) LIBERTY MUTUAL (2) LIBERTY	)	
MUTUAL INSURANCE (3) LIBERTY	)	
MUTUAL FIRE INSURANCE COMPANY,	)	
	)	
Defendants.	)	

**NOTICE OF REMOVAL**

COMES NOW the Defendant Liberty Mutual Fire Insurance Company and pursuant to 28 U.S.C. § 1446 and Fed. R. Civ. P. 81(c) states:

1. The above entitled suit was filed in the District Court of Oklahoma County, State of Oklahoma as Case No. CJ-2011-8181 on October 28, 2011. Liberty Mutual Fire Insurance Company was served through the office of the Oklahoma Insurance Commissioner on February 1, 2012. Receipt of service was the first notice Liberty Mutual Fire Insurance Company received of this suit. In accordance with 28 U.S.C. §1446(a) and LCvR 81.2, a copy of the docket sheet and a copy of all documents filed or served in the Oklahoma County case are attached to this Notice as Exhibit "1" through "3".

2. Plaintiff Derek Lowder is a resident and citizen of Oklahoma County, Oklahoma.

3. Defendant Liberty Mutual is not an existing entity.

4. Defendant Liberty Mutual Insurance is not an existing entity.

5. Defendant Liberty Mutual Fire Insurance Company is licensed to do business in the State of Oklahoma, incorporated in the State of Wisconsin and its principal place of business is in Boston, Massachusetts; therefore, Liberty Mutual Fire Insurance Company is deemed to be a citizen of Wisconsin or Massachusetts for purposes of diversity.

6. Jurisdiction is conferred upon this Court pursuant to 28 U.S.C. § 1332. Removal is proper pursuant to 28 U.S.C. §1441, et seq.

7. In this case, Plaintiff brings causes of action for breach of an insurance contract and bad faith against the defendant arising from a motor vehicle accident. Plaintiff's claims relate to the uninsured/underinsured motorist coverage of the policy.

8. The policy at issue includes UM coverage with \$100,000.00 per person and \$300,000.00 per accident. The Petition alleges that Plaintiff seeks damages "in an amount potentially in excess of \$75,000.00 for compensatory damages," plus Category II punitive damages under 23 O.S. §9.1(C)1 alleging Defendant "intentional and with malice" breached its duty to act in good faith. Thus, the amount in controversy exceeds the amount which is required for diversity jurisdiction.

9. Pursuant to 28 U.S.C. § 1332(a)(1), this Court has jurisdiction because of the complete diversity of citizenship of the parties and there is a sufficient amount in controversy.

10. Pursuant to 28 U.S.C. § 1446(a), Defendant acknowledges that this Notice of Removal is signed and filed pursuant to Rule 11 of the Federal Rules of Civil Procedure.

WHEREFORE, Defendant, Liberty Mutual Fire Insurance Company requests this Notice of Removal be accepted by this Court and that the lawsuit proceed as an action properly removed to this Court's jurisdiction.

Respectfully submitted,

WILSON, CAIN & ACQUAVIVA  
300 Northwest 13<sup>th</sup> Street, Suite 100  
Oklahoma City, Oklahoma 73103  
405/236-2600; FAX 405/236-2607

/s/ Barbara K. Buratti

Tim D. Cain, OBA #11779

Barbara K. Buratti, OBA #12231

[TimC@wcalaw.com](mailto:TimC@wcalaw.com)

[BarbaraB@wcalaw.com](mailto:BarbaraB@wcalaw.com)

***Attorneys for Defendant***

***Liberty Mutual Fire Insurance Company***

### **CERTIFICATE OF SERVICE**

X I hereby certify that on March 1, 2012, I electronically transmitted the attached document to the Clerk of the Court using the ECF System for filing. Based on the records currently on file, the Clerk of Court will transmit a Notice of Electronic Filing to the following ECF registrants:

Kevin E. Hill  
Homsey, Cooper, Hill & Carson  
4816 Classen Boulevard  
Oklahoma City, OK 73118  
***Attorney for Plaintiff***

\_\_\_\_\_ I hereby certify that on March 1, 2012, I served the attached document by Certified, Return Receipt Requested on the following, who are not registered participants of the ECF System:

/s/ Barbara K. Buratti

Barbara K. Buratti